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UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

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UNITED STATES OF AMERICA

v.

20-CR-199 (KMW)

JULIO ALVARADO,

ORDER

Defendant.

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KIMBA M. WOOD, United States District Judge:

On February 20, 2024, the Court denied Julio Alvarado's motion for a reduction in his sentence pursuant to 18 U.S.C. § 3582(c)(2). (Order, ECF No. 518.) On August 27, 2024, the Court received a letter from Alvarado requesting an extension of time to file a notice of appeal of the Court's February 20, 2024 Order. (Def.'s Mot., ECF No. 539.)

In his letter, Alvarado states that he did not receive a copy of the Court's Order denying his motion until May 23, 2024; he has been unable "to contact or locate [his] attorney, [his attorney] is not accepting any calls from [him] or [his] family"; and that he had hoped his attorney could file an appeal for him, but he is not aware of whether his attorney filed an appeal. (Def.'s Mot.) To date, neither Alvarado nor an attorney for him has filed a notice of appeal.

Federal Rule of Appellate Procedure 4(b) governs the procedure for filing a notice of appeal following the denial of a motion pursuant to 18 U.S.C. § 3582(c)(2). *See United States v. Gonzalez*, No. 03-CR-1310, 2019 WL 2125821, at *1 (S.D.N.Y. Apr. 17, 2019) (Preska, J.) (citing *United States v. Arrango*, 291 F.3d 170, 171 (2d Cir. 2002)). Rule 4(b)(1) provides that, in a criminal case, a defendant must file his notice of appeal within 14 days after the entry of the judgment or order being appealed. Fed. R. App. P. 4(b)(1)(A). The law provides that this Court

may extend a party's time to appeal, but may extend it for only 30 days. Even with an extension of 30 days, Alvarado would have needed to appeal by April 4, 2024. This Court thus has no power to enlarge Alvarado's time to appeal.

There is one possible avenue of appeal for Alvarado. Alvarado may file a notice of appeal even if it is untimely, and wait to see whether the government opposes it. If the government does not oppose the extension, the appeal is deemed timely. If the government opposes the extension, however, it will not be granted.

For the foregoing reasons, Alvarado's motion for an extension of time is DENIED. The Clerk of Court is respectfully requested to close the pending motion at ECF No. 539, and mail a copy of this Order, as well as ECF Nos. 517, 518, and 523, to Alvarado.¹

SO ORDERED.

Dated: New York, New York
October 2, 2024

/s/ Kimba M. Wood
KIMBA M. WOOD
United States District Judge

¹ In his letter, Alvarado requests "a copy of my last 3 docket entries from the court to be mail[ed] to my address." (Def.'s Mot.) The Court construes Alvarado's request as seeking the last three orders that the Court has issued in his case. As a result, the Court has requested that the Clerk of Court mail ECF Nos. 517, 518, and 523 to Alvarado.